

**THIRTY-EIGHTH DAY**

(Tuesday, March 13, 1945)

The Senate met at 10 o'clock a. m., pursuant to adjournment, and was called to order by the President.

The roll was called, and the following Senators were present:

Aikin	Mauritz
Brown	Metcalf
Bullock	Moffett
Carney	Morris
Crawford	Stanford
Hazlewood	Stone
Jones	Sulak
Knight	Taylor
Lane	Vick
Lanning	

The President announced there was not a quorum present, only 19 members having answered to their names.

Senator Metcalfe moved a call of the Senate for the purpose of securing and maintaining a quorum and the call was duly seconded.

Senators York, Ramsey, Graves and Moore appeared in the Senate Chamber and were announced present.

A quorum of the Senate was announced present.

Rev. J. E. Chester, Chaplain, offered the invocation.

On motion of Senator Aikin, and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

**Leaves of Absence Granted**

Senators Weinert and Spears were granted leaves of absence for today on account of illness on motion of Senator Vick.

Senators Chadick, Kelley, Martin, Parrish, Shivers, and Winfield were granted leaves of absence for today on account of important business on motion of Senator Vick.

**Reports of Standing Committees**

Senator Jones submitted the following report:

Austin, Texas,  
March 12, 1945.

Hon. John Lee Smith, President of the Senate.

Sir: We, your Committee on Commerce and Manufacturing to whom was referred S. B. No. 18, have had same under consideration and I am instructed to report it back to the Senate with the recommendation that it do pass with amendment and be printed.

JONES, Chairman.

**COMMITTEE AMENDMENT TO SENATE BILL NO. 18**

Amend Senate Bill No. 18 by striking out all the caption and inserting in lieu thereof a new caption to read as follows:

A bill to be entitled "An Act to protect trade-mark owners, labels, brands names of producers, owners of commodities which bear the trade-mark, brand, or name of the producer or owner of such commodities against injurious practices and the sale and resale of such commodities and to facilitate fair practices in the sale of commodities which are in fair and open competition with commodities of the same general class; providing that contracts relating to the sale or resale of such commodities shall not be in violation of any law of the State of Texas by reason of provisions which may be contained in contracts stipulating the price at which such commodities may be sold or resold, providing that such contracts shall not apply to sales under certain conditions; providing that this act shall not apply to contracts between producers or between wholesalers or between retailers as to sale or resale prices; providing that wilfully and knowingly advertising, offering for sale, or selling commodities in violation of such contracts by a party whether or not a party to such contract is actionable at the suit of any person damaged thereby; providing a savings clause that if any part of the Act is unconstitutional the remainder shall not be affected; repealing all Acts or parts of Acts inconsistent with this Act to the extent of such inconsistency; and declaring an emergency."

Senator Bullock submitted the following reports:

Austin, Texas,  
March 13, 1945.

Hon. John Lee Smith, President of  
the Senate.

Sir: We, your Committee on Education to whom was referred H. B. No. 274, have had same under consideration and I am instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

BULLOCK, Chairman.

Austin, Texas,  
March 13, 1945.

Hon. John Lee Smith, President of  
the Senate.

Sir: We, your Committee on Education to whom was referred H. B. No. 275, have had same under consideration and I am instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

BULLOCK, Chairman.

Austin, Texas,  
March 13, 1945.

Hon. John Lee Smith, President of  
the Senate.

Sir: We, your Committee on Education to whom was referred S. B. No. 134, have had same under consideration and I am instructed to report it back to the Senate with the recommendation that it do pass and be printed.

BULLOCK, Chairman.

Austin, Texas,  
March 13, 1945.

Hon. John Lee Smith, President of  
the Senate.

Sir: We, your Committee on Education to whom was referred S. B. No. 228, have had same under consideration and I am instructed to report it back to the Senate with the recommendation that it do pass and be printed.

BULLOCK, Chairman.

Austin, Texas,  
March 13, 1945.

Hon. John Lee Smith, President of  
the Senate.

Sir: We, your Committee on Education to whom was referred S. B. No. 223, have had same under consideration and I am instructed to report it back to the Senate with the

recommendation that it do pass and be printed.

BULLOCK, Chairman.

Austin, Texas,  
March 13, 1945.

Hon. John Lee Smith, President of  
the Senate.

Sir: We, your Committee on Education to whom was referred S. B. No. 148, have had same under consideration and I am instructed to report it back to the Senate with the recommendation that it do pass and be printed.

BULLOCK, Chairman.

Austin, Texas,  
March 13, 1945.

Hon. John Lee Smith, President of  
the Senate.

Sir: We, your Committee on Education to whom was referred S. B. No. 240, have had same under consideration and I am instructed to report it back to the Senate with the recommendation that it do pass and be printed.

BULLOCK, Chairman.

Senator York submitted the following report:

Austin, Texas,  
March 13, 1945.

Hon. John Lee Smith, President of  
the Senate.

Sir: We, your Committee on Aeronautics, to whom was referred H. C. R. No. 28, by Blankenship, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

YORK, Chairman.

Senator Lane submitted the following reports:

Austin, Texas,  
March 13, 1945.

Hon. John Lee Smith, President of  
the Senate.

Sir: We, your Committee on Criminal Jurisprudence to whom was referred S. B. No. 144, have had same under consideration and I am instructed to report it back to the Senate with the recommendation that it do pass and be printed.

LANE, Chairman.

Austin, Texas,  
March 13, 1945.

Hon. John Lee Smith, President of the Senate.

Sir: We, your Committee on Criminal Jurisprudence to whom was referred S. B. No. 173, have had same under consideration and I am instructed to report it back to the Senate with the recommendation that it do pass and be printed.

LANE, Chairman.

Austin, Texas,  
March 13, 1945.

Hon. John Lee Smith, President of the Senate.

Sir: We, your Committee on Criminal Jurisprudence to whom was referred S. B. No. 72, have had same under consideration and I am instructed to report it back to the Senate with the recommendation that it do pass and be printed.

LANE, Chairman.

Austin, Texas,  
March 13, 1945.

Hon. John Lee Smith, President of the Senate.

Sir: We, your Committee on Criminal Jurisprudence to whom was referred S. B. No. 146, have had same under consideration and I am instructed to report it back to the Senate with the recommendation that it do not pass and be not printed.

LANE, Chairman.

Austin, Texas,  
March 13, 1945.

Hon. John Lee Smith, President of the Senate.

Sir: We, your Committee on Criminal Jurisprudence to whom was referred S. B. No. 147, have had same under consideration and I am instructed to report it back to the Senate with the recommendation that it do not pass and be not printed.

LANE, Chairman.

Austin, Texas,  
March 13, 1945.

Hon. John Lee Smith, President of the Senate.

Sir: We, your Committee on Criminal Jurisprudence to whom was referred S. B. No. 70, have had same under consideration and I am instructed to report it back to the Senate with the recommendation that it do not pass and be not printed.

LANE, Chairman.

Austin, Texas,  
March 13, 1945.

Hon. John Lee Smith, President of the Senate.

Sir: We, your Committee on Criminal Jurisprudence to whom was referred S. B. No. 71, have had same under consideration and I am instructed to report it back to the Senate with the recommendation that it do not pass and be not printed.

LANE, Chairman.

Austin, Texas,  
March 13, 1945.

Hon. John Lee Smith, President of the Senate.

Sir: We, your Committee on Criminal Jurisprudence to whom was referred S. B. No. 73, have had same under consideration and I am instructed to report it back to the Senate with the recommendation that it do not pass and be not printed.

LANE, Chairman.

#### Point of Order

Senator Moore raised and submitted in writing the following point of order:

I raise the following point of order against the report of the Committee on Commerce and Manufacturing on S. B. No. 18, against the action of the Committee on Commerce and Manufacturing on the night of March 12, 1945, in attempting to act on such bill and report same out of the committee favorably, as well as the printing of such bill:

I was not given 48 hours notice in writing of such attempted hearing and action by the committee pursuant to my written request therefor as provided by the Rules of the 49th Senate. The attempted hearing, attempted action, attempted committee report are void because under the rules of the Senate the committee had no power to act until 48 hours notice (in writing) of such hearing was given to me. Reference is here made to the insertions made by me in the Senate Journal of March 12, 1945, relative to S. B. No. 18, and such are made a part hereof.

MOORE.

Senator Morris raised a point of order against a ruling on Senator Moore's point of order at this time on the ground that the bill which it affects is not before the Senate for consideration.

The President overruled the point of order by Senator Morris.

At the request of Senator Morris, Senator Moore, Senator Aikin and other Senators, the President withheld his ruling on the point of order by Senator Moore temporarily.

#### Messages from the Governor

The following messages, received from the Governor today, were laid before and read to the Senate at this time:

Austin, Texas,  
March 13, 1945.

To the Senate of the Forty-ninth Legislature:

I ask the advice, consent, and confirmation of the Senate with respect to the following appointments:

To be members of the Texas Prison Board for six year terms to expire February 2, 1951:

Claude K. McCan of Victoria, Victoria County.

Lindsay T. Murray of Waco, McLennan County.

J. W. Keeland of Houston, Harris County.

To be a member of the Texas Prison Board to fill the unexpired term of Honorable Gaylord J. Stone, resigned, term to expire February 2, 1947:

E. B. Chapman of Sherman, Grayson County.

To be a member of the Texas Prison Board to fill the unexpired term of Honorable George Sealy, deceased, term to expire February 2, 1949:

Joe C. Carrington of Austin, Travis County.

To be members of the Board of Directors of the Agricultural and Mechanical College of Texas for six year term expiring January 10, 1951:

Roy C. Potts of Belton, Bell County.

J. Rutledge Hill of Dallas, Dallas County.

To be a member of the State Board of Water Engineers to fill the unexpired term of Honorable A. H. Dunlap, deceased, term expiring August 19, 1947:

Colonel E. V. Spence of Big Spring, Howard County.

Respectfully submitted,

COKE R. STEVENSON,  
Governor of Texas.

Austin, Texas,  
March 13, 1945.

To the Senate of the Forty-ninth Legislature:

I ask the advice, consent, and confirmation of the Senate with respect to the following appointment:

To be Branch Pilot for Sabine Bar, Pass and Tributaries for a two year term to expire March 14, 1947:

Captain A. L. Urie of Port Arthur, Jefferson County.

Respectfully submitted,  
COKE R. STEVENSON,  
Governor of Texas.

The messages were referred to the Committee on Nominations of the Governor.

#### Message from the House

Hall of the House of Representatives,  
Austin, Texas,  
March 13, 1945.

Hon. John Lee Smith, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bills:

H. B. No. 84, A bill to be entitled "An Act to amend Article 2350, Title 44, Revised Civil Statutes of the State of Texas, 1925, as amended by the Acts of the Thirty-ninth Legislature, Regular Session, Chapter 135, Section 1; and as amended by Act of the Fortieth Legislature, page 435, Chapter 290, Section 1 and as amended by Acts of 40th Legislature, First Called Session, page 138, Chapter 46, Section 1; and as amended by Acts of the Forty-third Legislature, Regular Session, Chapter 216; and as amended by Acts of the Forty-third Legislature, First Called Session, Chapter 83, page 220; and as amended by Acts of the Forty-fourth Legislature, Regular Session, Chapter 362; and so as to provide the salaries of County Commissioners and Precinct Commissioners in certain counties; providing that all laws or parts of laws in conflict with this Act are hereby expressly repealed; providing that if any part of this Act be declared unconstitutional it shall not affect and remaining part; and declaring an emergency."

H. B. No. 192, A bill to be entitled "An Act making specific appropriation of Six Hundred Fourteen and 75/100 (\$614.75) Dollars out of the State Highway Fund in the State Treasury not otherwise appropriated

to pay a certain judgment obtained by Allie Kelley against the State Highway Commission and the State of Texas, on February 15, 1944, in the Special District Court of Smith County, Texas, in Cause No. 11943-a, and declaring an emergency."

H. B. No. 336, A bill to be entitled "An Act relating to the posting of citations and notices in probate matters; clarifying the duties of the sheriff or constable serving citations or notices in probate matters which are required to be served by posting; validating citations and notices and the service and return thereof in probate matters where service thereof was required to be done by posting and validating the actions of probate courts upon and with respect to matters in regard to which citations and notices were required to be served by posting, provided such service and return was made as provided in this Act; providing that this Act shall not apply to certain cases; and declaring an emergency."

Respectfully submitted,  
**CLARENCE JONES,**  
 Chief Clerk, House of Representatives.

**Senate Bill 4 on Second Reading**

The President laid before the Senate on its second reading and passage to engrossment:

S. B. No. 4, A bill to be entitled "An Act amending Article 2870, of the Revised Civil Statutes of 1925, (relating to free text books), repealing all laws and parts of laws in conflict herewith; and declaring an emergency."

The bill was read second time.

(Pending the reading of the bill, the President pro tempore occupied the Chair temporarily).

(President in the Chair)

The bill was passed to engrossment.

**Senate Bill 4 on Third Reading**

Senator Metcalfe moved that the constitutional rule requiring bill to be read on three several days be suspended and that S. B. No. 4 be placed on its third reading and final passage.

The motion was lost by the following vote (not receiving the necessary two-thirds vote):

**Yeas—14**

**Brown  
 Bullock**

**Carney  
 Crawford**

<b>Graves</b>	<b>York</b>
<b>Hazlewood</b>	<b>Jones</b>
<b>Moore</b>	<b>Mauritz</b>
<b>Morris</b>	<b>Metcalfe</b>
<b>Stone</b>	<b>Moffett</b>

**Nays—8**

<b>Aikin</b>	<b>Ramsey</b>
<b>Knight</b>	<b>Stanford</b>
<b>Lane</b>	<b>Sulak</b>
<b>Lanning</b>	<b>Vick</b>

**Absent**

**Taylor**

**Absent—Excused**

<b>Chadick</b>	<b>Shivers</b>
<b>Kelley</b>	<b>Spears</b>
<b>Martin</b>	<b>Weinert</b>
<b>Parrish</b>	<b>Winfield</b>

**Joint Session**

(To hear Hon. Wick Fowler)

At 11:30 o'clock a. m., the President announced the arrival of the hour for a joint session to hear an address by the Hon. Wick Fowler, and he requested the members of the Senate to proceed in a body to the Hall of the House of Representatives.

The Senate was announced at the Hall of the House and was duly admitted.

Governor Coke R. Stevenson occupied a seat on the speaker's rostrum.

The President of the Senate, on invitation of the Speaker, occupied a seat at the Speaker's desk.

Hon. Wick Fowler, accompanied by Mrs. Fowler and by his father and mother, Mr. and Mrs. I. D. Fowler, Sr., was escorted to the Speaker's rostrum by Senators Taylor, Ramsey, and Vick, on the part of the Senate, and by Representatives Blankenship, Reed of Dallas, Crosthwait, Hanna, Mangum of Dallas, and Parkhouse on the part of the House.

At the request of the Speaker, Hon. Dallas A. Blankenship of Dallas County took the Speaker's Chair.

The President of the Senate ascertained and announced the presence of a quorum of the Senate.

The Speaker (Hon. Dallas A. Blankenship in the Chair) ascertained and announced the presence of a quorum of the House. Mr. Blankenship announced the purpose of the joint session and presented Senator Taylor, who presented Hon. Wick Fowler to the joint session.

Mr. Fowler then addressed the joint session.

At the conclusion of the address, Senator Taylor presented Mr. Fowler with a copy of the resolution inviting him to address the joint session.

#### Senate Retires

At the conclusion of the address and the presentation of the resolution, the President announced that the purpose of the joint session had been accomplished and, at 12:10 o'clock p. m., he requested the Senate to retire to its Chamber.

#### In the Senate

The President called the Senate to order at 12:15 o'clock p. m.

#### Adjournment

On motion of Senator Mauritz, the Senate, at 12:20 o'clock p. m., adjourned until 10 o'clock a. m., tomorrow.

### THIRTY-NINTH DAY

(Wednesday, March 14, 1945)

The Senate met at 10:00 a. m., pursuant to adjournment, and was called to order by the President.

The roll was called, and the following Senators were present:

Aikin	Metcalf
Brown	Moffett
Bullock	Moore
Carney	Morris
Chadick	Ramsey
Crawford	Shivers
Graves	Spears
Hazlewood	Stanford
Jones	Stone
Knight	Sulak
Lane	Taylor
Lanning	Vick
Martin	Winfield
Mauritz	York

A quorum was announced present.

The Reverend J. E. Chester, Chaplain, offered the invocation.

On motion of Senator Aikin, and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

#### Leaves of Absence Granted

Senator Weinert was granted leave of absence for today on account of illness on motion of Senator Mauritz.

Senators Kelley and Parrish were granted leaves of absence for today on account of important business on motion of Senator Mauritz.

#### Report of Standing Committee

Senator Metcalfe submitted the following report:

Austin, Texas,  
March 14, 1945.

Hon. John Lee Smith, President of the Senate:

Sir: We, your Committee on Highways and Motor Traffic, to whom was referred S. B. No. 150, have had same under consideration and I am instructed to report it back to the Senate with the recommendation that it do pass and be printed.

METCALFE, Chairman.

#### Statement Regarding Point of Order Raised by Senator Moore

Senator Spears, by unanimous consent, submitted at this time the following statement regarding the point of order raised on yesterday by Senator Moore with respect to S. B. No. 18:

The Point of Order is not well taken for the following reasons:

Senator Moore relies upon Rule 106 of the Texas Legislative Manual for support in sustaining his point of order. Rule 106 among other things provides the following: "Any member of the Senate, by making timely request therefor upon the chairman (or vice-chairman in the absence of the chairman) shall be entitled to receive at least 48 hours advance notice in writing of the time and place of hearing on any bill or bills specified in the demand, that the time and place of hearing on any bill having been fixed in response to said request, the chairman shall not be required to change or delay said hearing upon subsequent request from other members of the Senate."

The request of Senator Moore was not timely. The Senate Journal dated March 12, 1945, shows that Senate Bill No. 18 was at my request re-referred to the Committee on Commerce and Manufacturing on the 26th of February, 1945, by the Senate. At this time a verbal request was made